

CALIFORNIA COASTAL COMMISSION

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Staff Report and Recommendation on Consistency Determination

Consistency Determination

No. CD-144-97

Staff: TNP-SF

File Date: 10/10/97

45th Day: 11/24/97

60th Day: 12/9/97

Extended to: 9/12/98

Commission Meeting: 9/10/98

Federal Agency: Bureau of Land Management

Development Location: Black Sands Beach, 3.5 miles from Telegraph Creek to Gitchell Creek, King Range National Conservation Area, Humboldt County (Exhibits 1-2).

Development Description: Install barrier and gate to close 3.5 miles of Black Sands Beach to off-road vehicle use (Exhibit 3).

Executive Summary

On July 9, 1998, the Commission received a consistency determination from the Bureau of Land Management (BLM) to prohibit off-road vehicle use at Black Sands Beach in the Kings Range National Conservation Area. Although BLM has allowed off-road vehicle use at the beach since the 1970s, the activity has always been controversial. Public comments during the planning process for several management plans and more recent visitor surveys indicate conflicts between off-road vehicle users and other users of the area. BLM now proposes to prohibit vehicle use at Black Sands Beach in order to reduce the conflicts between users and manage the entire area as a primitive, backcountry recreation area. Except for the 3.5 mile stretch of beach supporting vehicle use, the entire area surrounding Black Sands Beach is managed for primitive, backcountry recreation. BLM states the restriction for vehicles on the beach is

needed to provide consistent management of the overall area for backcountry recreation and assure the quality of the backcountry experience.

Prior to its current proposal, BLM sought to manage Black Sands Beach to accommodate both vehicle use and backcountry use. In spite of several efforts, the conflict between vehicle users and non-vehicle users in a primitive, roadless area remains. The applicable Coastal Act policies recognize that in some situations, access may need to be managed. In this case, preservation of the overall quality of the recreation experience in the project area necessitates restriction of one specific type of use. The project is consistent with the access policies of the Coastal Act.

Staff Note: The Commission opened the hearing for this project during the August, 1998 Commission meeting in Huntington Beach. During the hearing, members of the public and several Commissioners expressed concerns about the location of the meeting and the effect on public participation, given that the next Commission meeting was scheduled in Eureka. In an effort to further accommodate public participation, BLM agreed to extend the time period for Commission review of the project until September 12, 1998.

Staff Summary and Recommendation:

I. Staff Summary

A. *Project Description and Background:* The Bureau of Land Management (BLM) proposes to prohibit motorized vehicle use on 3.5 miles of Black Sands Beach, north of Shelter Cove, in the King Range Conservation Area in Humboldt County (KRNCA) (Exhibits 1-3). BLM's objective is to provide consistent management of the overall area for backcountry recreation. Under BLM's proposal, access for pedestrians, wheelchairs, and emergency service vehicles would continue to be provided.

The KRNCA was designated in 1970 and expanded in 1976. The area was recommended as a wilderness designation in 1990, and in 1995, the coastline (including the Lost Coast Trail which runs through the project area) was designated as a National Recreation Trail. Although BLM has historically allowed off-road vehicle use at Black Sands Beach, this use has always been controversial. BLM's 1974 management plan zoned Black Sands Beach into "mechanical" and "non-mechanical" zones: vehicle use was allowed on the beach between Telegraph Creek and Gitchell Creek, the site of BLM's current proposal to prohibit vehicle use. The remaining 20 miles of the beach was closed to vehicle use. These separate zones were designated due to public safety concerns and due to conflicts between vehicle users and other recreational activities. A second area was also allowed for vehicle use, near the Punta Gorda lighthouse. However, in 1979, vehicle use was no longer permitted in this area due to significant impacts to archeological resources and "to prevent conflicts between vehicular and non-vehicular recreation uses" (pg. 9, Environmental Assessment).

Throughout subsequent planning processes, vehicle use at Black Sands Beach continued to be raised as an issue. In BLM's 1986 Transportation plan for the area, public concerns included inadequate enforcement of the motorized area. BLM continued to allow vehicle use in the "mechanical" zone of Black Sands Beach, and committed to improve its enforcement to reduce use past Gitchell Creek. In 1988, BLM released the Final Environmental Impact Statement for Wilderness Recommendations for the King Range and Chemise Mountain Wilderness Study Areas. Public comments expressed concern about the impacts from vehicle use on wilderness recreation opportunities and, again, inadequate enforcement of the restriction. BLM again sought to increase enforcement of the boundaries for off-road vehicle use. In 1992, the KRNCA Visitor Services Plan was developed. Comments on this plan again expressed controversy over the use of vehicles on Black Sands Beach and the conflict between vehicle use and other recreation experiences. The management plan deferred changes to uses and focused on further reinforcing methods for reducing conflicts and prevent vehicle use in closed areas.

Because of the ongoing conflicts between vehicle users and other users of the backcountry area, and because of the impact of vehicle use on overall backcountry recreation, BLM now proposes to prohibit vehicle use on Black Sands Beach.

B. Status of Local Coastal Program: The standard of review for federal consistency determinations is the policies of Chapter 3 of the Coastal Act, and not the Local Coastal program (LCP) of the affected area. If the LCP has been certified by the Commission and incorporated into the California Coastal Management Program (CCMP), it can provide guidance in applying Chapter 3 policies in light of local circumstances. If the LCP has not been incorporated into the CCMP, it cannot be used to guide the Commission's decision, but it can be used as background information. The Commission has certified the LCP for Humboldt County and incorporated it into the CCMP.

C. Federal Agency's Consistency Determination: The Bureau of Land Management has determined the project to be consistent to the maximum extent practicable with the California Coastal Management Program.

II. Staff Recommendation:

Staff recommends that the Commission adopt the following motion:

MOTION: I move that the Commission *concur* with the Bureau of Land Management's consistency determination.

The staff recommends a **YES** vote on this motion. A majority vote of the prevailing commissioners in the affirmative will result in adoption of the following resolution and findings:

Concurrence:

The Commission hereby concurs with the consistency determination made by the Bureau of Land Management for the proposed project, finding that the project is consistent to the maximum extent practicable with the California Coastal Management Program (CCMP).

III. Findings and Declarations:

The Commission finds and declares as follows:

A. Public Access: Sections 30210 through 30212 of the Coastal Act require public access opportunities to and along the coast to be protected and maximized, consistent with public safety, resource constraints, and military security needs. Section 30210 states:

In carrying out the requirement of Section 4 of Article X of the California Constitution, maximum access, which shall be conspicuously posted, and recreational opportunities shall be provided for all the people consistent with public safety needs and the need to protect public rights, rights of private property owners, and natural resource areas from overuse.

Section 30212 states, in part:

(a) Public access from the nearest public roadway to the shoreline and along the coast shall be provided in new development projects except where:

(1) it is inconsistent with public safety, military security needs, or the protection of fragile coastal resources

Section 30214 states, in part:

(a) The public access policies of this article shall be implemented in a manner that takes into account the need to regulate the time, place, and manner of public access depending on the facts and circumstances in each case including, but not limited to, the following:

(1) Topographic and geologic site characteristics.

(2) The capacity of the site to sustain use and at what level of intensity.

(3) The appropriateness of limiting public access to the right to pass and repass depending on such factors as the fragility of the natural resources in the area and the proximity of the access area to adjacent residential uses.

The Bureau of Land Management (BLM) proposes to restrict vehicle use at Black Sands Beach. Although the beach will remain open for pedestrian access, wheelchairs, and emergency service vehicles, BLM's proposal will restrict a specific type of access to the beach that has historically been allowed. As

discussed in the background section of these findings, off-road vehicle use at Black Sands Beach has long been controversial. BLM proposes the restrictions to provide more cohesive management of the entire area, consistent with the overall objectives of its management plan. In its Environmental Assessment, BLM states:

“BLM’s long-term intention is to manage the incomparable, nationally significant resource along the coastal slope of the King Range for its unique primitive and undeveloped character. This intent is consistent with the past 23 years of management of the coastal slope of the King Range. Motorized vehicle use of the 3.5 miles of Black Sands Beach considered in this proposed action has always been a compromise and exception to an otherwise coherent management approach for the coastal slope. ... Use by motor vehicles is not consistent with this management goal and detracts from the wild and primitive character of the area, and the associated non-motorized recreation experiences” (pg. 17).

Opponents to the proposed project may argue that restricting a type of use reduces public access opportunities. However, restricting a specific type of use is not inherently in conflict with Coastal Act policies. Although the Coastal Act mandates the provision of “maximum” access, the Act also recognizes that in some cases, access opportunities may have to be managed: the goal of providing “maximum” access must account for the overall recreation experience and preservation of the quality of the experience for users. In some situations, assuring this quality may lead to a need to manage, or restrict, specific uses. Black Sands Beach is in an area where the primary focus is primitive, backcountry recreation. Except for the 3.5 miles of Black Sands Beach open to vehicle use, the entire coastline from Mattole River to Black Sands Beach is managed as backcountry/primitive area. As explained in BLM’s environmental assessment, it is the uniqueness of the overall area, due in large part to the roadless setting, that provides a high value for backcountry use. The roadless nature of the land was a primary factor that led to the KRNCA being designated as a National Conservation Area.

Under the King Range Management Plan, Black Sands Beach falls within the residential zone (zone 3); this designation was not intended to allow for residential development, but to accommodate an existing road easement that extended along the beach terrace to Gitchell Creek. Much of this road has since been eroded and reconstruction is no longer feasible. Regardless, Black Sands Beach is surrounded by zone 2, the most wild and pristine of the management zones. For zone 2, the management plan states that the “primary use of this zone is recreation. The major objective is to retain the wild and scenic values of the steep mountainous slopes facing the ocean and to preserve the unique character of the beach.” Given the surrounding designation of wilderness, and the overall nature of the King Range in the project area, Black Sands Beach is also part of the wilderness area. From a resource and user standpoint, there is no real distinction in value once a user crosses Gitchell Creek. The entire area is a cohesive unit and should be managed as such. Motorized use of Black Sands Beach significantly affects the quality of other access and recreation opportunities, and is incompatible with the goals of providing a backcountry experience. In this case, restricting a specific type of use to manage the overall area for the benefit of public access and recreation is consistent with Section 30214 and the other access policies of the Coastal Act.

In considering its proposal, BLM has also considered state-wide trends for recreation patterns and demand. While state-wide trends are not the only factor in considering whether to allow or restrict an activity, it can be one consideration when dealing with managing an area for conflicting uses. The California Outdoor Recreation Plan, published by the State Department of Parks and Recreation, provides

a planning tool to guide the activities of park and recreation planners in California. Analysis from the plan indicates that the current participation in and demand for additional opportunities for non-motorized activities, such as trail hiking and primitive camping/backpacking is higher than for vehicle-oriented activities. Given the conflicts between these two types of activities in the project area and the uniqueness of the area for backcountry recreation, managing the area to maximize the quality of the recreational experience for backcountry use will increase access opportunities overall. In addition, while the proposed action will restrict one type of use from Black Sands Beach, other areas will remain available for vehicle use, including at:

- Samoa Dunes (90 miles away)
- Cow Mountain (100 miles)
- Oregon Dunes (250 miles)
- Pismo State Beach (350 miles)
- Shasta-Cahppie area (230 miles)

Prior to BLM's current proposal to restrict off-road vehicle use at Black Sands Beach, BLM sought to accommodate both off-road vehicle use and non-motorized backcountry uses. However, enforcing the boundaries where vehicles were allowed on the beach has been extremely difficult for BLM. The boundary of the motorized area is Gitchell Creek; because there are no natural barriers at the creek to stop vehicles, and because the area is remote, adequate enforcement of the boundary is difficult. Over the years, as a result of comments regarding conflicts between vehicle users and backcountry users, BLM sought to improve enforcement of the vehicle boundaries, through better information, signs, and patrols. However, due to the remote location, the restrictions are difficult to enforce. The proposed action will install a barrier to prevent vehicle use of the beach, while allowing pedestrian, wheelchair, and emergency service vehicles access (Exhibit 4).

In addition, even if vehicle use were allowed to continue with the current boundaries, the benefit to public access opportunities would be small. BLM states that vehicle use of the beach is "used less as an OHV (off-road vehicle) play area than it is as a corridor to provide motorized access for other activities, such as camping, fishing, abalone diving, and surfing" (pg. 18). These activities, however, generally occur north of the area where vehicle use is allowed, leading to illegal vehicle use beyond the allowed boundary.

Even if the boundaries for vehicle use could be adequately enforced, the inherent conflict with a primitive, backcountry use would remain. Since the mid 1970s, overall recreation use of the area has grown. BLM states that in 1973, backcountry use accounted for an estimated 1,000 visitor days and vehicle use at Black Sands Beach accounted for an estimated 600 visitor days. In 1996, BLM estimates that backcountry use is at 14,000 visitor days. Vehicle use at Black Sands Beach had declined for some years since 1973, but is now rising, and is estimated at 500 visitor days (1996). Visitor surveys conducted in 1993, 1994, 1996, and 1997, all indicate conflicts between backcountry users and off-road vehicle use at Black Sands Beach. As discussed earlier, these conflicts were also evident during the planning process for several management plans undertaken by BLM. As the overall recreation use in the area increases, the conflicts between vehicle users and non-vehicle users will also increase, degrading the overall recreation experience for backcountry users.

Finally, Section 30210 of the Coastal Act states that access must be managed in a manner consistent with public safety and resource protection. Closure of Black Sands Beach to off-road vehicle use will

reduce potential problems with public safety between vehicle users and other users, and will reduce impacts to habitat and wildlife in the area.

In conclusion, the Commission agrees with BLM that by prohibiting vehicle access to the Black Sands Beach, the proposed project would enhance the larger recreational opportunities and support the overall recreation objectives of the area. The Commission therefore concludes that although the proposed project will restrict a specific type of access to Black Sands Beach, the proposed project is consistent with the overall public access policies (Sections 30210-30214) of the Coastal Act.